

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

CARRINGTON MORTGAGE SERVICES, LLC, )  
 )  
 Plaintiff(s), )  
 )  
 vs. )  
 )  
 SFR INVESTMENTS POOL 1, LLC, )  
 )  
 Defendant(s). )

Case No. 2:15-cv-01377-JCM-NJK

ORDER

(Docket No. 32)

Pending before the Court is Defendant's renewed motion for a protective order related to a Rule 30(b)(6) deposition noticed for February 12, 2016. Docket No. 32. The Court denied the previously-filed motion because it incorrectly relied on a state law standard for relevancy, the primary issue advanced by Defendant. *See* Docket No. 31. Defendant's renewed motion cites federal law, but relies on the standard for relevancy for purposes of admitting evidence at trial. *See* Docket No. 32 at 4 (discussing Federal Rule of Evidence 401). That is not the standard applicable in the discovery context. *See, e.g., Kerr v. U.S. Dist. Court for the N. Dist. of Cal.*, 511 F.2d 192, 196 (9th Cir. 1975) ("the question of relevancy is to be more loosely construed at the discovery stage than at the trial" and "it is no ground for objection that the information sought in pretrial discovery would not be admissible at trial"); 8 Wright, Miller, & Marcus, *FEDERAL PRACTICE AND PROCEDURE*, § 2008, at p. 125-126 (2010) (distinguishing between the relevancy standard in Rule 26 of the Federal Rules of Civil Procedure and the relevancy standard for admission of evidence at trial governed by the Rule 401 of the Federal Rules of Evidence); *see also* Fed. R. Civ. P. 26(b)(1) ("Information within this scope of discovery need not be admissible in evidence to be discoverable").

1 Rule 26 of the Federal Rules of Civil Procedure outlines the scope of allowable discovery, and  
 2 limits parties to seeking “relevant” information. *See* Fed. R. Civ. P. 26(b)(1).<sup>1</sup> Case law applying Rule  
 3 26 emphasizes that “relevancy under Rule 26 is extremely broad,” *U.S. E.E.O.C. v. Caesars Enter., Inc.*,  
 4 237 F.R.D. 428, 431 (D. Nev. 2006), and “contemplates discovery into any matter that bears on or that  
 5 reasonably could lead to other matter that could bear on any issue that is or may be raised in a case,”  
 6 *Phoenix Solutions Inc. v. Wells Fargo Bank, N.A.*, 254 F.R.D. 568, 575 (N.D. Cal. 2008) (emphasis  
 7 added). “Relevant information for purposes of discovery is information ‘reasonably calculated to lead  
 8 to the discovery of admissible evidence.’” *Survivor Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 635  
 9 (9th Cir. 2005) (quoting *Brown Bag Software v. Symantec Corp.*, 960 F.2d 1465, 1470 (9th Cir. 1992)).

10 As noted above, the renewed motion relies on an improper standard for relevancy.<sup>2</sup> Moreover,  
 11 it appears that the improper recitation of the applicable standard may have impacted the arguments  
 12 made, which do not appear consistent with the above standard. *Compare Phoenix Solutions*, 254 F.R.D.  
 13 at 575 (relevant discovery includes information bearing on “any issue” in the case) *with* Docket No. 32  
 14 at 4 (arguing that a deposition topic is improper because it is not pertinent “to the core issue in this  
 15 case”). As such, the renewed motion for protective order is hereby **DENIED** without prejudice. To the  
 16 extent Defendant believes its relevancy objection remains valid, it shall promptly meet-and-confer with  
 17 Plaintiff’s counsel. Any refiled motion must be filed no later than January 29, 2016, and must address  
 18 the standards outlined above.<sup>3</sup>

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21 <sup>1</sup> As highlighted by the recent amendments to Rule 26, the scope of discovery is also limited to  
 22 discovery that is “proportional to the needs of the case.” Fed. R. Civ. P. 26(b)(1) (effective December 1,  
 23 2015).

24 <sup>2</sup> The Court generally rules only based on the arguments presented by the parties. When parties  
 25 incorrectly formulate the applicable standard, however, the Court has a duty to ensure that the correct  
 26 standard is applied. *See, e.g., Bateman v. United States Postal Serv.*, 231 F.3d 1220, 1224 (9th Cir. 2000).  
 Especially given the time constraints of this dispute and the multiple instances of Defendant reciting an  
 incorrect standard, the Court issues this order to streamline the process for resolving the pending dispute.

27 <sup>3</sup> To the extent Defendant believes the standard outlined herein is not applicable, it is free to explain  
 28 that position in the renewed motion.

1 In the event the motion for protective order is renewed, any response must be filed no later than  
2 February 3, 2016, and any reply must be filed no later than February 4, 2016.<sup>4</sup> The Court hereby **SETS**  
3 a hearing on any renewed motion for 2:00 p.m. on February 9, 2016, in Courtroom 3D.

4 IT IS SO ORDERED.

5 DATED: January 27, 2016

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8 NANCY J. KOPPE  
9 United States Magistrate Judge  
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27 <sup>4</sup> Notwithstanding any contrary indications from the automatically-generated CM/ECF notices, the  
28 briefing schedule set in this order controls. *See, e.g., Carrillo v. B&J Andrews Enters., LLC*, 2013 U.S. Dist.  
Lexis 22010, \*2 (D. Nev. Feb. 19, 2013).